

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAY 28 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the)
Subscriber Changes Provisions)
of the Telecommunications Act)
of 1996)

Policies and Rules Concerning)
Unauthorized Changes of Consumers')
Long Distance Carriers)

Sprint Request for Wavier)
_____)

DOCKET FILE COPY ORIGINAL

CC Docket No. 94-129

AMENDED PETITION FOR WAIVER

Sprint Communications Company L.P. ("Sprint"), pursuant to Section 1.3 of the Commission's Rules, 47 CFR §1.3, hereby respectfully requests a limited waiver of the Commission's authorization and verification rules (47 CFR §§64.1100 -64.1190) to the extent necessary to enable Sprint to transfer the subscribers of Telmex/Sprint Communications, L.L.C. ("TSC") to its customer base without first obtaining such subscribers' authorization and verification.¹ As demonstrated below, Sprint fully satisfies the good cause standard established by *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) for securing a waiver.

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List A B C D E

¹ Sprint is amending its original petition filed May 21, 1999, to more fully explain the notification process Sprint will use to inform TSC's customers of the switch in their service provider and to assure the Commission that Sprint will handle all customer service inquiries from TSC's customers regarding the impact of the dissolution of TSC on their long distance service and the change in their service provider. In addition, Sprint has attached drafts of the initial notices, both in English and in Spanish, that it will send to TSC's on or about June 9, 1999.

I. BACKGROUND

TSC is a 50-50 joint venture between Teléfonos de Mexico, S.A. de C.V. ("Telmex") and Sprint. *See Telmex/Sprint Communications, L.L.C. (File No. ITC-97-127)*, 12 FCC Rcd 17551, 17553 (¶7) (1997) (*TSC Order*). TSC received its international Section 214 authorization from the Commission in October 1997 and began providing U.S. domestic and international services as a switchless reseller to U.S. residents in August 1998. Sprint is TSC's underlying facilities-based carrier.

On May 4, 1999, Telmex and Sprint announced that they were dissolving the joint venture. Under the terms of the dissolution, Sprint will succeed to TSC's subscriber base and thus such subscribers will receive service directly from Sprint as opposed to receiving Sprint service through TSC. Prior to such succession, Sprint will send letters to TSC's subscribers informing them that TSC has discontinued service; that the service they have received from TSC has always been physically provided by Sprint; that if they stay with Sprint, they will continue to receive the same service as provided by TSC at the same rates, terms and conditions; that the only difference is that they will be billed by Sprint rather than TSC; that they do not have to do anything to receive Sprint service; but that if they do not want Sprint service, they should contact their LEC to change carriers.² In addition, after such succession, Sprint intends to send those TSC customers who remain with Sprint a letter welcoming them to Sprint and informing them of other Sprint services and products that might better satisfy their communications needs.

² TSC's 800 service customers will be told of their right to contact another carrier if they do not want to receive 800 service directly from Sprint. As stated, draft copies of the such notices are attached hereto.

II. ARGUMENT

Under the regulatory regime established by the Commission in its *Second Report and Order* issued in this proceeding, (FCC 98-334 released December 23, 1998), Sprint is considered to be an executing carrier when it converts customers from one of its switchless reseller customers to itself. See *Second Report and Order* at ¶95 ("...the facilities-based IXC would be the executing carrier for all carrier changes in which the subscriber remains on the facilities-based IXC's network, regardless of whether the subscriber has changed from a switchless reseller to the reseller's facilities-based IXC..."). Under §64.1100(a)(2) of the FCC's rules, executing carriers need not verify changes in a subscriber's selection of a provider of telecommunications services.

Sprint also appears to be a submitting carrier with respect to subscribers it transfers from its TSC to itself.³ Submitting carriers are required to verify all preferred carrier change orders before such changes can be executed. See 47 CFR §64.1150 ("No carrier shall submit a preferred carrier change order unless and until the order has first been confirmed in accordance with one of the following [verification] procedures..."). But requiring that Sprint obtain verification of each of TSC's subscribers before it can begin to provide service to such subscribers would prevent the seamless transfer of such subscribers and disrupt their ability to place 1+ long distance calls over the facilities of the carrier that is actually transporting their calls today at the identical rates and under the identical terms and conditions for the service they currently receive from TSC. Indeed, given the size of TSC's subscriber, it would be unlikely in

³ Sprint believes that the Commission's *Second Report and Order* is somewhat unclear on this point. Compare ¶94 where the Commission states that a facilities-based LEC can be both an executing and submitting carrier with ¶95 where the Commission classifies the facilities-based IXC only as an executing carrier when it changes a subscriber of its switchless reseller customer to its own services. Sprint does agree that, as a logical matter, the IXC should also be considered a submitting carrier in such instances and for this reason it is filing this waiver petition.

the extreme that Sprint will be able to obtain the verification of each of TSC's subscribers before TSC discontinues operations. Thus, absent a waiver, Sprint would have to block the 1+ calls of those unverified former TSC subscribers, causing them inconvenience and forcing them to utilize dial-around services which may be more expensive than the services they now receive from TSC and will continue to receive from Sprint. In any case, as stated, all of TSC's subscribers will receive prior notification from Sprint of the change in their service provider and will be informed of their ability to change carriers by contacting their LEC. Moreover, Sprint intends to send welcoming letters to those TSC customers who are transferred to Sprint. And, Sprint will handle and attempt to resolve to their satisfaction all inquiries from customers regarding the impact of the dissolution of TSC on their long distance service and the change in their service provider.⁴ Plainly, the circumstances justifying granting Sprint its requested waiver are similar, if not identical, to the circumstances found by the Commission to justify a waiver in the public interest of its authorization and verification rules for EqualNet Corp. *See Implementation of the Subscriber Changes Provisions of the Telecommunications Act of 1996; EqualNet Corporation Request for Waiver, Order* (DA 99-506) released March 15, 1999. *See also Implementation of the Subscriber Changes Provisions of the Telecommunications Act of 1996; CoreComm Limited Request for Waiver* (DA 99-893) released May 13, 1999 and *Implementation of the Subscriber Changes Provisions of the Telecommunications Act of 1996; International Exchange Communications, Inc. Request for Waiver* (DA 99-894) released May 13, 1999.

⁴ Sprint handles all customer service calls from TSC's subscribers today on TSC's behalf.

Accordingly, Sprint respectfully requests that the Commission waive its authorization and verification rules as set forth herein. Sprint also requests that its request here be expedited since TSC intends to discontinue operations in the relatively near future.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY L.P.

A handwritten signature in black ink, appearing to read 'LM Kestenbaum', is written over a horizontal line.

Leon M. Kestenbaum

Michael B. Fingerhut

1850 M Street, N.W., 11th Floor

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(202) 828-7438

Its Attorneys

May 28, 1999

Dial 1 Notification Letter Draft

Dear Telmex-Sprint Communications, L.L.C. Customer,

On May 5th, 1999 Telefonos de Mexico (Telmex) and Sprint announced their mutual agreement to end their joint venture, Telmex-Sprint Communications. Under terms of the agreement, Telmex-Sprint Communications will no longer provide long distance services.

The purpose of this letter is to notify you that your long distance service with Telmex-Sprint Communications will be transferred to Sprint effective (DATE). Telmex-Sprint Communications has been operating as a reseller of Sprint long distance service. Therefore, you will continue to receive the same high-quality service from Sprint as you did from Telmex-Sprint Communications.

All Telmex-Sprint Communications long distance customers (Plan Linea Fronteriza, Plan Norte, Plan Bajio/Centro, Plan Sur) will continue to receive service under the same rates, terms and conditions as provided by Telmex-Sprint Communications. The existing long distance product names "Plan Linea Fronteriza", "Plan Norte", "Plan Bajio/Centro" and "Plan Sur" will change as a result of the transition. New product names will appear on your August invoice. Only the product names will change. If any of your rates, terms and conditions change in the future, you will receive notification from Sprint."

Telmex-Sprint Communications customers do not have to take any action to receive Sprint service. Your service will be automatically converted to Sprint as of (DATE). You will not incur any fees in association with the transfer of service. The only difference will be the new product names beginning with the August invoice and Sprint billing you for services provided.

If you do not want your account converted to Sprint, you have the right to contact your local telephone company to select an alternative long distance carrier.

Sprint looks forward to continuing to meet your need for high-quality long distance services to keep you in touch with those you care about. Any questions you may have about your existing service or the conversion to Sprint should be directed to Telmex-Sprint Customer Service at 1-800-822-1523.

Sincerely,

Anne Dennehy
Senior Marketing Manager
International Consumer Marketing

Carta de Notificacion "Dial 1"

Estimado Cliente de Telmex-Sprint Communications L.L.C.:

Teléfonos de México (Telmex) y Sprint anunciaron de mutuo acuerdo la terminación de la sociedad formada por éstas dos empresas, el 5 de mayo de 1999. Bajo los términos de éste acuerdo, Telmex-Sprint Communications no proveerá más servicios de larga distancia en el futuro.

El proposito de ésta carta es de informarle que su servicio de larga distancia con Telmex-Sprint Communications será transferido a Sprint a partir del 16 de Julio de 1999. Telmex-Sprint Communications ha venido operando como una subsidiaria del servicio de larga distancia de Sprint. Por lo tanto, usted continuará recibiendo el mismo servicio de alta calidad de Sprint, como lo recibio de Telmex-Sprint Communications.

Todos los clientes de Telmex-Sprint Communications (Plan Línea Fronteriza, Plan Norte, Plan Bajío/Centro, Plan Sur) continuarán recibiendo el servicio bajo las mismas tarifas, términos y condiciones brindados por Telmex-Sprint Communications. Los presentes servicios de larga distancia llamados "Plan Línea Fronteriza", "Plan Norte", "Plan Bajío/Centro" y "Plan Sur" cambiarán como resultado del nuevo acuerdo. Los nuevos nombres de los servicios aparecerán en su factura de agosto. Solo los nombres del producto cambiarán. Si en el futuro alguna de sus tarifas, términos o condiciones cambiará, Usted recibirá una notificación de Sprint.

Los Clientes de Telmex-Sprint no necesitan tomar ninguna acción para recibir el servicio de Sprint. Su servicio será transferido automáticamente a Sprint a partir del 16 de Julio de 1999. No existirá ningún cargo asociado con el cambio del servicio. La única diferencia será el nuevo nombre del servicio de larga distancia a partir de agosto y la facturación que la Compañía Sprint emitirá por los servicios brindados.

Si no desea que su cuenta se convierta a Sprint, Usted tiene el derecho de contactar a su Compañía de telefonos local y seleccionar otra empresa de larga distancia.

Para mantenerlo unido a sus seres queridos, Sprint espera continuar cubriendo con alta calidad sus necesidades en el servicio de larga distancia. Cualquier pregunta sobre su servicio actual o el cambio a Sprint por favor dirigirse al departamento de Servicio al Cliente Telmex-Sprint número 1-800-822-1523.

Cordialmente,

Anne Dennehy
Senior Marketing Manager
International Consumer Marketing

800 Notification Letter Draft

Dear Telmex-Sprint Communications, L.L.C. Customer,

On May 5th, 1999 Telefonos de Mexico (Telmex) and Sprint announced their mutual agreement to end their joint venture, Telmex-Sprint Communications. Under terms of the agreement, Telmex-Sprint Communications will no longer provide long distance services.

The purpose of this letter is to notify you that your long distance service with Telmex-Sprint Communications will be transferred to Sprint effective (DATE). Telmex-Sprint Communications has been operating as a reseller of Sprint long distance service. Therefore, you will continue to receive the same high-quality service from Sprint as you did from Telmex-Sprint Communications.

All Telmex-Sprint Communications Linea 800 long distance customers will continue to receive service under the same rates, terms and conditions as provided by Telmex-Sprint Communications. The existing long distance product name "Linea 800" will change as a result of the transition. The new product name will appear on your August invoice. Only the product name will change. If any of your rates, terms and conditions change in the future, you will receive notification from Sprint."

Telmex-Sprint Communications customers do not have to take any action to receive Sprint service. Your service will be automatically converted to Sprint as of (DATE). You will not incur any fees in association with the transfer of service. The only difference will be the new product name beginning with the August invoice and Sprint billing you for services provided.

You have the right to contact another carrier for 800 service if you do not wish to receive service from Sprint.

Sprint looks forward to continuing to meet your need for high-quality long distance services to keep you in touch with those you care about. Any questions you may have about your existing service or the conversion to Sprint should be directed to Telmex-Sprint Customer Service at 1-800-822-1523.

Sincerely,

Anne Dennehy
Senior Marketing Manager
International Consumer Marketing

Carta de Notificación 800

Estimado Cliente de Telmex-Sprint Communications L.L.C.:

Teléfonos de México (Telmex) y Sprint anunciaron de mutuo acuerdo la terminación de la sociedad formada por éstas dos empresas, el 5 de mayo de 1999. Bajo los términos de éste acuerdo, Telmex-Sprint Communications no proveerá más servicios de larga distancia en el futuro.

El proposito de ésta carta es de informarle que su servicio de larga distancia con Telmex-Sprint Communications será transferido a Sprint a partir del 16 de Julio de 1999. Telmex-Sprint Communications ha venido operando como una subsidiaria del servicio de larga distancia de Sprint. Por lo tanto, usted continuará recibiendo el mismo servicio de alta calidad de Sprint, como lo recibio de Telmex-Sprint Communications.

Todos los clientes de Telmex-Sprint Communications línea 800 de larga distancia continuarán recibiendo el servicio bajo las mismas tarifas, términos y condiciones brindados por Telmex-Sprint Communications. El presente servicio de larga distancia llamado "Línea 800" cambiará como resultado del nuevo acuerdo. El nuevo nombre del servicio aparecerá en su factura de agosto. Solo el nombre del producto cambiará. Si en el futuro alguna de sus tarifas, términos o condiciones cambiará, Usted recibirá una notificación de Sprint.

Los Clientes de Telmex-Sprint no necesitan tomar ninguna acción para recibir el servicio de Sprint. Su servicio será transferido automáticamente a Sprint a partir del 16 de Julio de 1999. No existirá ningún cargo asociado con el cambio del servicio. La única diferencia será el nuevo nombre del servicio de larga distancia a partir de agosto y la facturación que la Compañía Sprint emitirá por los servicios brindados.

Usted tiene todo el derecho de comunicarse con otra Compañía de servicio 800, si no desea recibir el servicio de Sprint.

Para mantenerlo unido a sus seres queridos, Sprint espera continuar cubriendo con alta calidad sus necesidades en el servicio de larga distancia. Cualquier pregunta sobre su servicio actual o el cambio a Sprint por favor dirigirse al departamento de Servicio al Cliente Telmex-Sprint número 1-800-822-1523.

Cordialmente,

Anne Dennehy
Senior Marketing Manager
International Consumer Marketing

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing AMENDED PETITION FOR WAIVER was sent
By hand or by United States first-class mail, postage prepaid, on this the 28th day of May, 1999 to the
parties on the attached list.


Christine Jackson

May 28, 1999

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